

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND SIX

PRESENT

**THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO**

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WRIT PETITION No.12862 OF 2006

Between:

M/s.Sripradha Lubes & Petro Chemicals,
S.No.285, Nagambapuram (v),
Buchi Reddy Palem (M),
Nellore District represented by its
Manager Partner Sri P.T.Jagannathan.

..... PETITIONER

AND

Commercial Tax Officer, Kavali,
and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.12862 OF 2006

O R D E R

(Per Sri Justice J.Chelameswar)

Aggrieved by an order of the 3rd respondent in rejecting the stay application of the petitioner pending an appeal before the Sales Tax Appellate Tribunal, the present writ petition is filed with a prayer as follows:

“...to issue a writ or order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the balance disputed tax of Rs.32,66,791/- for the assessment year 2003-04 (APGST) arising in pursuance of the stay rejection orders of the third respondent dated 01.06.2006 passed in CCT's Ref.No.LV(1)/790/2006 read with the revision orders of the second respondent dated 07.02.2006 pending disposal of the appeal before the Sales Tax Appellate Tribunal ...”

The petitioner is a partnership firm registered under APGST Act carrying on business of chemicals and white kerosene. The petitioner was initially assessed for Central Sales Tax (CST) for the assessment year 2003-04 with regard to certain sales classified by the petitioner as consignment sales in the Union Territory of Pondicherry particularly in Yanam. Along with the assessment for the CST, the 1st respondent passed an order under the APGST Act, the details of which may not be necessary for the present purpose. However, the 2nd respondent in purported exercise of the power under Section 120 of the APGST Act revised the order passed in APGST Act, and came to the conclusion

that the petitioner is liable for payment of tax to the tune of Rs.43,55,721/- under the APGST Act for the above-mentioned assessment year.

Aggrieved by the same, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal and pending the appeal, wherein serious questions of fact and law are involved as to the nature of the transactions during the assessment year, whether they were inter-state sales or consignment sales etc., the petitioner sought stay of the recovery of the tax as determined by the revisionary authority-2nd respondent. The 3rd respondent rejected the said application and hence, the present writ petition.

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by directing the respondents not to take coercive steps for recovery of the tax as determined by the 2nd respondent by his proceedings dated 07.02.2006 with respect to assessment year 2003-04 on condition that the petitioner deposits an amount of Rs.20,00,000/- (Rupees twenty lakhs only) within a period of six weeks from today. The amount, if any, paid already towards the disputed tax, shall be given credit while computing Rs.20,00,000/-.

With the above direction, the writ petition is disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

6th JULY, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

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WRIT PETITION No.12862 OF 2006
(Per Sri Justice J.Chelameswar)

6th JULY, 2006